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EXAMINER PHONGSVIRAJATI, POONSIN				
ART UNIT		PAPER NUMBER		
3686				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/518,837

**Applicant(s)**

WEGMAN, MAAIKE

**Examiner**

SIND PHONGSVIRAJATI

**Art Unit**

3686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 16 is objected to because of the following informalities: the claim recites the term, "activatable", however, this term is not an actual word or even a variation of the word activate. Appropriate correction is required.
2. Claim 18 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

### ***Specification***

3. The amendment filed 01/09/2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The amendments to the specifications recite, "Modifications and alterations may occur to others upon reading and understanding the preceding detailed description. It is intended that the invention be construed as including all such modifications and alterations insofar as they come within the scope of the appended claims or the equivalents thereof". The Examiner interprets that Applicant is entering the scope of the appended claims into the specification which may or may not be obvious to the original disclosure

of the specification. Examiner respectfully request that the said amendment to the specification be removed.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7, 14, 16, and 18 is/are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 7 recites the limitation "the indicated medical examination device" in line 3 of claim 7. There is insufficient antecedent basis for this limitation in the claim. It is unclear to the examiner whether the claimed medical examination device was intended to be the medical care equipment or a claim element for a separate apparatus. For examination purposes, "the indicated medical examination device" will be considered as "the indicated medical care equipment".

4. Claim 14 recites, "such that the person virtually experiences the medical care activity" in lines 2-3 of claim 14. The term, "virtually experiences" leaves the claim indefinite as to how one would qualify a person in virtually experiencing a medical care activity. For example, one could "virtually experience" the medical care activity inside

their state of mind when viewing the viewpoint of the medical care equipment. For purposes of examination, the above recitation will be interpreted as the example given above. Additional clarification is requested.

5. Claim 16 recites the limitation "the generated display" in line 2 of claim 16. There is insufficient antecedent basis for this limitation in the claim. It is unclear to the examiner whether "the generated display" was intended to be the generated two-dimensional view of claim 1. For examination purposes, "the generated display" will be interpreted as the example given above. Additional clarification is requested.

6. Claim 18 recites the limitation, "performing the method as claimed in claim 1 to allow the person to become familiar with the medical care equipment at the person's own speed". However, the person's own speed is relative to the person's ability to become familiarized with the medical equipment. The specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 1-9, 11-19 are rejected under 35 U.S.C. 101 as being directed towards non-statutory subject matter based on Supreme Court precedent, and recent Federal Circuit decisions, *In re Bilski U.S. Court of Appeals Federal Circuit 88 USPQ2d 1385*.

The machine-or-transformation test is a two-branched inquiry; an applicant may show that a process claim satisfies § 101 either by showing that his claim is tied to a particular machine, or by showing that his claim transforms an article. See *Benson*, 409 U.S. at 70. Certain considerations are applicable to analysis under either branch. First, as illustrated by *Benson* and discussed below, the use of a specific machine or transformation of an article must impose meaningful limits on the claim's scope to impart patent-eligibility. See *Benson*, 409 U.S. at 71-72. Second, the involvement of the machine or transformation in the claimed process must not merely be insignificant extra-solution activity. See *Flook*, 437 U.S. at 590.

9. The methods recited in claims 1-9, 11-19 are not tied to a machine nor transform the underlying subject matter to a different state or thing. See *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); and *Gottschalk v. Benson*, 409 U.S. 63, 71 (1972).

10. Based on Supreme Court precedent, a method/process claim must (1) be tied to another statutory class of invention (such as a particular apparatus) (see at least *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing (see at least *Gottschalk v. Benson*, 409 U.S. 63, 71 (1972)).

11. A method/process claim that fails to meet one of the above requirements is not in compliance with the statutory requirements of 35 U.S.C. 101 for patent eligible subject matter. Here claims 1-9, 11-19 fail to meet the above requirements because they are not tied to another statutory class of invention.

12. Nominal recitations of structure in an otherwise ineligible method fail to make the method a statutory process. See *Benson*, 409 U.S. at 71-72. As *Comiskey* recognized, "the mere use of the machine to collect data necessary for application of the mental process may not make the claim patentable subject matter." *Comiskey*, 499 F.3d at 1380 (citing *In re Grams*, 888 F.2d 835, 839-40 (Fed. Cir.1989)). Incidental physical limitations, such as data gathering, field of use limitations, and post-solution activity are not enough to convert an abstract idea into a statutory process. In other words, nominal or token recitations of structure in a method claim do not convert an otherwise ineligible claim into an eligible one.

13. The amended claims, 1-9, 11-19, have removed all claim elements which refer the claim limitations to any hardware or machine. At best, the claim limitations now recite functional limitations that claim software per se.

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1-3, 5-6, 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda et al. (5,966,310) in view of Bodor et al. (US 6,201,546).

16. As to **Claim 1**, Maeda teaches a method enabling a person to obtain information on equipment, the method comprising: offering the person an option to indicate a selected equipment on a user interface, transmitting, on receipt of an indication of the selected equipment, information relating to the indicated equipment to the user interface; offering the person an option to select a viewpoint (col. 10 line 5-8, col. 24 lines 8-27, Fig. 6-8); selecting, from a database comprising three-dimensional representations of equipment, a three-dimensional representation of the indicated equipment (col. 13 line 66 to col. 14 line 13, col. 5 line 39 to col. 6 line 13); and generating a two-dimensional view from a selected viewpoint of the selected three-dimensional representation (col. 10 line 5-8, col. 24 lines 8-27, Fig. 6-8). But Maeda does not specify the equipment as medical care equipment. Bodor does teach



producing and storing three dimensional images of equipment that comprises medical devices and equipment (Bodor, Abstract, col. 17 lines 32-42).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the embodiments of retrieving equipment information to the user in the form of two and three-dimensional images to further include medical devices and equipment. One would have been motivated to further comprise medical devices and equipment since the systems described by Maeda and Bodor are equally applicable to various apparatuses (Bodor, col. 17 lines 36-47).

17. As to **Claim 2**, Maeda teaches a method as claimed in claim 1, wherein the method comprises a step of offering an option to adjust the selected three-dimensional representation, representing a change in the configuration of the selected equipment (col. 4 line 57 to col. 5 line 8, col. 6 line 14-41).

18. As to **Claim 3**, Maeda teaches a method as claimed in claim 1, wherein the method comprises a step of offering an option to generate a sequence of two-dimensional views (col. 18 lines 1-28, col. 20 lines 1-45, Fig. 7-8).

19. As to **Claim 5**, Maeda does not specifically disclose a method as claimed in claim 1, wherein the medical care equipment comprises a medical examination device. Bodor does teach wherein the medical care equipment comprises a medical examination device (Bodor, col. 17 lines 32-42).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the embodiments of retrieving equipment information to the user in

the form of two and three-dimensional images to further include medical equipment further comprising devices for the same motivation as explained above in claim 1.

20. As to **Claim 6**, Maeda teaches a method enabling a person to obtain information on equipment, the method comprising a first step of offering the person an option to indicate a selected equipment on a user interface, and a second step of transmitting, on receipt of an indication of the selected equipment, information relating to the indicated equipment to the user interface, characterized in that the method comprises: a step of offering the person an option to select a viewpoint; a further step of selecting, from a database comprising three-dimensional representations of equipment, a three-dimensional representation of the indicated equipment; and a step of generating a two-dimensional view from a selected viewpoint of the selected three-dimensional representation wherein a viewpoint may be selected from which a two-dimensional view of an inside area of a device is generated (Fig. 4D, 5C).

21. wherein a viewpoint may be selected from which a two-dimensional view of an inside area of a device is generated (Fig. 4D, 5C).

22. As to **Claim 8**, Maeda teaches a method as claimed in claim 1, wherein the offering step includes: offering the person an option to include information on facial characteristics of himself or herself with this indication, which information is included in the selected three-dimensional representation (col. 3 lines 7-9).

23. Claim 9 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda et al. (5,966,310) in view of Bodor et al. (US 6,201,546) in further view of Admitted Prior Art (APR).

24. As to **Claim 9**, the combination of Maeda and Bodor teaches a method as claimed in claim 1, wherein the first step indication is used for the selection of a three-dimensional representation of the indicated medical care equipment. But Maeda and Bodor do not specifically disclose offering the person the option to include the name of a medical care location which is used for the selection of said medical care equipment. However, the ability to search for medical care equipment by the name of a medical care location is well known in the art, and official notice to that effect is hereby taken. Because Applicant failed to adequately traverse the official notice to the last office action, the official notice is considered to be Applicant admitted prior art (MPEP 2144.03(C)). It is also noted that the limitation regarding, "such that the person can view the medical care equipment which is at the selected medical care location", is considered intended use and therefore will not be given patentable weight (MPEP 2106(II)(C))

It would have been obvious to one of ordinary skill in the art at the time of the invention to include adding a criteria to a search query in order to offer a person the option to include the name of a medical care location in order to narrow the search results in the selection of the indicated medical care equipment. One would have been motivated to offer a person the option to include the name of a medical care location so

as to select the correct medical care equipment for three-dimensional representation at the desired medical care location.

25. As to **Claim 10**, Maeda teaches a system enabling a person to obtain information on equipment, comprising: a user interface configured to select equipment on the user interface (col. 10 line 5-8, col. 24 lines 8-27, Fig. 6-8); and to select viewpoints exterior and interior to the selected equipment including a viewpoint of a user experiencing care with the selected equipment (col. 6 lines 57-64, col. 7 lines 14-18); a computer which receives an indication of the selected equipment from the user interface, and for transmits, on receipt of said indication, information relating to the indicated equipment to the user interface; a database which stores a plurality of three-dimensional representations of equipment (col. 13 line 66 to col. 14 line 13, col. 5 line 39 to col. 6 line 13); a means for selecting, from said database, a three-dimensional representation corresponding to the selected equipment; a means for generating a two-dimensional view from a selected viewpoint of the selected three-dimensional representation (col. 10 line 5-8, col. 24 lines 8-27, Fig. 6-8). But Maeda does not specify the equipment as medical care equipment. Bodor does teach producing and storing three dimensional images of equipment that comprises medical devices and equipment (Bodor, Abstract, col. 17 lines 32-42).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the embodiments of retrieving equipment information to the user in the form of two and three-dimensional images to further include medical devices and

equipment. One would have been motivated to further comprise medical devices and equipment since the systems described by Maeda and Bodor are equally applicable to various apparatuses (Bodor, col. 17 lines 36-47).

26. As to **Claim 11**, Maeda does not specifically teach the method as claimed in claim 1, wherein the two- dimensional view further includes a hyperlink to further information on the selected medical care equipment. Bodor does teach of internet hyperlinks being incorporated into any form of model (col. 17 lines 22-31).

27. Claims 4, 7, and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda et al. (5,966,310) in view of Bodor et al. (US 6,201,546) in further view of Levy (US 6,731,324).

28. As to **Claims 4 and 7**, the combination of Maeda and Bodor does not specifically disclose the method as claimed in claim 1, wherein the information comprises audible information relating to the indicated medical care equipment and wherein the audible information comprises operating sound of the indicated medical examination device during a medical care activity. Levy does teach the information comprising audible information relating to the indicated medical care equipment and wherein the audible information comprises operating sound of the indicated medical examination device (Levy, Abstract, col. 3 lines 14-19, col. 5 lines 26-43).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the feature of sound recognition of a medical device or equipment as taught by Levy within the teachings of Maeda and Bodor. One would have been motivated to include audio information to assist in such services as troubleshooting, instrument installation assistance, technique monitoring and training, and technical training (Levy, col. 2 lines 1-6).

29. As to **Claim 12 and 13**, Maeda teaches the method as claimed in claim 3, further including: generating a voice describing elements of the medical care activity (col. 21 lines 31-33) but Maeda, nor the combination of Maeda and Bodor, specifically discloses sounds which can be heard by a patient during the medical care activity and generating sounds which are heard by a patient during the medical care activity such that the person can view and hear the medical care activity. Levy does teach the information comprising audible and visual information relating to the indicated medical care equipment and wherein the audible information comprises operating sound of the indicated medical examination device (Levy, Abstract, col. 3 lines 14-19, col. 5 lines 26-43).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the feature of sound recognition of a medical device or equipment as taught by Levy within the teachings of Maeda and Bodor. One would have been motivated to include audio information to assist in such services as troubleshooting,

instrument installation assistance, technique monitoring and training, and technical training (Levy, col. 2 lines 1-6).

30. As to **Claim 14**, Maeda teaches the method as claimed in claim 13, the selected viewpoint is inside the equipment such that the person virtually experiences the medical care activity (col. 6 lines 57-64, col. 7 lines 14-18).

31. As to **Claim 15**, Maeda teaches the method as claimed in claim 13, further including: offering the person the option to select facial characteristics of himself or herself; and wherein generating the sequence of two-dimensional views includes a depiction of a patient with the selected facial characteristics undergoing the medical care activity (col. 3 lines 7-9).

32. As to **Claim 16**, the combination of Maeda and Bodor teaches the two-dimensional view generating step includes generating a series of two-dimensional views depicting operation of the medical care equipment to perform a medical care activity (Abstracts). But the combination of Maeda, Bodor and Levy does not specifically disclose generating a display for the operator control buttons with which the buttons may be activated by the user to control the operation of medical care equipment. However, the Examiner takes official notice that generating a display for the operator control buttons with which the buttons may be activated by the user to control the operation of medical care equipment is well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have generating a display for the operator control buttons with which the buttons may be activated by the

user to control the operation of medical care equipment for the motivation of allowing the user to familiarize himself/herself with the controls of the medical equipment.

33. As to **Claim 18**, the combination of Maeda and Bodor teaches a method of comforting a person who has the prospect of undergoing a medical care activity with medical care equipment comprising performing the method as claimed in claim 1 to allow the person to become familiar with the medical care equipment at the person's own speed (Abstract).

34. As to **Claims 17 and 19**, the combination of Maeda, Bodor, and Levy teaches the limitations of claims 17 and 19 but does not specifically disclose the medical care equipment being an MRI device. However, choosing an MRI device as the medical care equipment would have been obvious to try since choosing an MRI device would be choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success. It would have been obvious to one of ordinary skill in the art at the time of the invention to have choose an MRI device as the medical care equipment within the disclosures of Maeda, Bodor, and Levy since choosing an MRI device would merely be choosing from a finite number of identified, predictable solutions.



***Response to Arguments***

35. Applicant's arguments filed 01/09/2009 have been fully considered but they are not persuasive.

36. Applicant states that Maeda does not disclose, "Maeda does not disclose anything related to medical care equipment". As the Examiner has stated in the previous office action, "But Maeda does not specify the equipment as medical care equipment". Bodor does teach producing and storing three dimensional images of equipment that comprises medical devices and equipment. Applicant then refers Examiner to his citations and states that, "Bodor does not teach storing three dimensional representations of medical care equipment in a database and creating a two-dimensional view of a particular piece of medical care equipment, selected by a user, from its three dimensional representation stored in the database". However, Applicant states, "Bodor which discloses a method for creating three dimensional textured models from two dimensional images which may also be applicable to, for example .... medical devices and equipment [Bodor, col. 17 lines 40-41]...".

37. Applicant's arguments with respect to claims 6, and 10-19 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

38. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

39. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

40. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SIND PHONGSVIRAJATI whose telephone number is (571) 270-5398. The examiner can normally be reached on Monday - Thursday 8:00am-5:00pm (ET).

41. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

42. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/S. P./  
Examiner, Art Unit 3686  
6 April 2009

/Gerald J. O'Connor/  
Supervisory Patent Examiner  
Group Art Unit 3686